IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1465 OF 2004

1. M/s Hadimohammed Allibhai & Co. & Ors. ..Petitioners
V/s

The State of Maharashtra and Ors. ..Respondents.

Khaitan & Jaykar for the petitioners.
Mrs. M.H.Mhatre, APP for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 7TH OCTOBER, 2006.

P.C.

. This Criminal Writ Petition under Articles 226 and 227 of Constitution of India r/w section 482 of Code of Criminal Procedure claims following reliefs-

> "(a) that this Hon'ble Court be pleased to pass an appropriate writ, order or direction under the provisions of Articles 226 and 227 of the Constitution of India and/or exercise jurisdiction under Section 482 of the Criminal Procedure Code calling for the records of the case and after looking into the legality and validity thereof to quash and set aside the Complaint No. 37348 of 2002 pending in the Addl. Metropolitan Magistrate's 22nd Court at Banglore."
>
> (b) In the alternative this Hon'ble Court be pleased to pass a writ of Mandamus or a writ in the nature of Mandamus directing the Respondent No.3 to transfer the Complaint No. 3738 of 2002

> pending in the 22nd Addl. Metropolitan Magistrate's Court at Banglore to any Judicial Magistrate in Pune."

2. The learned Advocate appearing in support does not dispute that the complaint No. 3738/2002 is pending in Additional Metropolitan Magistrate 27th Court at Banglore. The complainant-second respondent is having its office at Pune. According to the petitioner, the cause of action in as much as the transaction, as also the cheques have been issued at Pune. The agreement is executed at Pune and it is subject to Pune Court's jurisdiction. There is nothing occurred at Banglore save and except issuance of notices upon dishonour of the cheques. In such circumstances, this Court has territorial jurisdiction and even if the complaint filed is pending before the Court at Banglore, this Court can quash and set side the same.

3. In my view, the petitioners are residing in Pune. They are carrying on business at Pune. The second respondent is also at Pune. However, this petition is filed before me for quashing of the Criminal Complaint at Bangalore on the ground that cause of action has occurred at Pune and the Banglore Court would

have no jurisdiction to try the complaint. In my view, this is the defence which the petitioners intend to raise in answer to the proceeding initiated at Banglore. The second respondent is not admitting the plea in as much as a detailed affidavit in reply has been filed. Apart from raising issue of jurisdiction of this court, reliance is placed upon the decision of the Supreme Court. However, in para 2(a) running page 46 this is what is stated by the second respondent original complainant:-

> "The Petitioners are seeking to invoke the writ jurisdiction of this Hon'ble Court to quash/set aside proceedings under Section 138 of the Negotiable Instruments Act initiated by the 2nd Respondent before the 22nd Additional Metropolitan Magistrate's Court at Bangalore. The jurisdiction of this Hon'ble Court is sought to be invoked inter alia under Article 227 of the Constitution of India. Article 227 sets out the power of superintendence exercised by this Hon'ble Court. Article 227(1) states that: "Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction". It is respectfully submitted that the territorial jurisdiction of this Hon'ble Court is confined to all courts and tribunals within the State of Maharashtra and not to those falling outside the geographical limits of the State of Maharashtra. The 22nd Additional Metropolitan Magistrate's Court at Bangalore falls outside the jurisdiction of this Hon'ble Court. This Hon'ble Court consequently does not have jurisdiction to grant the reliefs sought by the Petitioners. In the premises, this Petition which seeks to invoke the power of this Hon'ble Court to quash proceedings in a

court outside the jurisdiction of this Hon'ble Court ought to be dismissed."

. The plea raised is that cheques have been deposited in a Bank at Banglore. Thus, on the issue of jurisdiction itself, the matter raises a triable issue. It is not possible to exercise writ jurisdiction in such circumstances and decide the pleas raised on the basis of affidavit. In my view, in the facts and circumstances of the present case, it would be appropriate, if the petitioners institute proceeding under Article 226/227 of Constitution of India r/w Section 482 of Cr.P.C. before the Karnataka High Court, so also take up all pleas if they so choose before the Metropolitan Magistrate Court at Banglore.

4. In the peculiar facts and circumstances of this case, I am of the opinion that this petition is not maintainable before this Court. Petition is dismissed.

(S.C.DHARMADHIKARI, J.)